

FCC Received April 3, 1995 @ 2:45 pm.
Donna A. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

CC DOCKET NO. 94-11

TELEPHONE AND DATA SYSTEMS, INC./
WISCONSIN RSA NO. 8, INC./
UNITED STATES CELLULAR OPERATING COMPANY
Wisconsin 8 (Vernon) Rural Service Area

DOCKET FILE COPY ORIGINAL

DATE OF HEARING: March 14, 1995

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FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

-----)
 In re Application of)
)

TELEPHONE AND DATA SYSTEMS, INC.)

CC Docket No. 94-11

For facilities in the Domestic)
 Public Cellular Telecommunications)
 Radio Service on Frequency Block B,)
 in Market 715, Wisconsin 8 (Vernon),)
 Rural Service Area)
 -----)

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The above-entitled matter came on for a Prehearing
 Conference pursuant to Notice before Judge Joseph Gonzalez,
 Administrative Law Judge, at 2000 L Street, N.W., Washington,
 D.C., 20554, in Courtroom No. 4, on Tuesday, March 14, 1995,
 at 10:00 a.m.

APPEARANCES:

On behalf of Telephone and Data Systems, Inc. (TDS):

Nathaniel F. Emmons, Esquire
 Mullin, Rhyne, Emmons and Topel, P.C.
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(202) 659-4700

On behalf of United States Cellular Corporation (USCC):

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 Thomas P. Van Wazer, Esquire
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(202) 736-8058/8000

1 On behalf of Louisiana CGSA, Inc.:

2 Luisa L. Lancetti, Esquire
 3 Wilkinson, Barker, Knauer & Quinn
 4 1735 New York Avenue, N.W.
 5 Washington, D.C. 20006-5289
 (202) 783-4141

6 On behalf of Wisconsin 8 Settlement Group:

7 Kenneth E. Hardman, Esquire
 8 Moir & Hardman
 9 2000 L. Street, N.W., Suite 512
 10 Washington, D.C. 20036
 (202) 223-3772

11 On behalf of Arthur V. Belendiuk:

12 William Crispin, Esquire
 13 Verner, Liipfert, Bernhard, McPherson and Hand, Chartered
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 15 Washington, D.C. 20005
 (202) 371-6000

16 On behalf of Wireless Telecommunications Bureau:

17 Joseph Paul Weber, Esquire
 18 Federal Communications Commission
 19 1919 M Street, Room 644
 Washington, D.C. 20554

20 I N D E X

	<u>Page No.</u>
22 Opening Statement:	by Judge Gonzalez 377
23 Discussion:	by Mr. Schneider 377
24	
25 Conference Began: 10:02 a.m.	Conference Ended: 10:12 a.m.

P R O C E E D I N G S

(10:02 a.m.)

JUDGE GONZALEZ: Today is March 14, 1995, and it's 10:02 in the morning. This is a further Prehearing Conference regarding the Application of Telephone and Data Systems, Inc., for facilities in the Domestic Public Cellular Telecommunications Radio Service on Frequency Block B, in Market 715, Wisconsin 8, a Rural Service Area. That's Docket No. CC 94-11.

Do you want to bring -- enter your appearances now, beginning on my left, sir?

MR. EMMONS: Nathaniel F. Emmons for Telephone and Data Systems, Inc.

MR. SCHNEIDER: On behalf of the United States Cellular Corporation, Mark D. Schneider and Thomas P. Van Wazer, Sidley & Austin.

MR. CRISPIN: William Crispin for Arthur Belendiuk.

MS. LANCETTI: Luisa Lancetti of Wilkinson, Barker, Knauer & Quinn, representing Louisiana CGSA, Inc.

MR. HARDMAN: Kenneth E. Hardman, Moir & Hardman, for the Wisconsin 8 Settlement Group.

MR. WEBER: Joseph Paul Weber for the Wireless Telecommunications Bureau.

JUDGE GONZALEZ: Thank you. Mr. Schneider, do you want to go forward?

1 MR. SCHNEIDER: Yes, Your Honor. Pursuant to, to
2 our discussions yesterday at a prehearing conference that was
3 held immediately prior to the trial, I'd like to put on the
4 record some of the matters we discussed yesterday. First, as
5 I mentioned, last week we filed a Joint Request for Approval
6 of Settlement Agreement with Portland Cellular Partnership,
7 and my understanding is that the Bureau is prepared to take a
8 position on that, that joint request on the record.

9 JUDGE GONZALEZ: Mr. Weber?

10 MR. WEBER: That is correct, Your Honor. The Bureau
11 has reviewed the Request for Withdrawal and for Approval of a
12 Settlement Agreement and the Bureau supports the agreement.
13 The Bureau believes it is in compliance with the rules dealing
14 with settlement and also believes that it would serve the
15 public interest for this request to be granted.

16 JUDGE GONZALEZ: All right. Well, then, are you
17 prepared to grant the request? Is that it? Is the Bureau
18 going to do it, as we did with the other, or do you --

19 MR. WEBER: There, there is no portion of this one
20 for the Bureau to grant. The jurisdiction with this particu-
21 lar request is entirely yours, Your Honor.

22 JUDGE GONZALEZ: I see. All right. Well, I, I note
23 your support and I will rule by, by written order.

24 MR. WEBER: Thank you.

25 MR. SCHNEIDER: Second, Your Honor, I would like to

1 put on the record the fact that late last week principals of
2 Bell South, TDS, and United States Cellular and various affil-
3 iates executed a definitive Settlement Agreement that calls
4 for the settlement of two proceedings before the Federal
5 Courts and several matters pending before the Federal
6 Communications Commission, which also calls for the withdrawal
7 of Bell South from the instant proceeding. It is the inten-
8 tion of the Parties to file a joint request covering that
9 Settlement Agreement this week. That Settlement Agreement
10 will be filed with both Your Honor and with the Bureau because
11 there are matters pending before both Your Honor and the
12 Bureau that are involved in the settlement, and it's our
13 understanding that both the Bureau and the -- and, and the
14 presiding judge will be required to act on those -- on that --
15 those joint requests, much in the manner as occurred with the
16 -- the settlement with GTE Mobile Net.

17 JUDGE GONZALEZ: Okay.

18 MR. SCHNEIDER: Finally, I'd like to advise Your
19 Honor that the Wisconsin 8 Settlement Group and Telephone and
20 Data Systems and United States Cellular Corporation have
21 signed and reached an agreement in principal that will cover
22 the settlement of the disputes between those parties arising
23 in the Wisconsin 8 proceeding.

24 The agreement calls for the execution of a defini-
25 tive settlement agreement within the next 30 days that will

1 embody -- that will include a partnership agreement that
2 embodies the terms of the agreement in principal executed by
3 counsel for both -- for all parties.

4 As a part of the settlement, TDS will amend its
5 pending application to specify a partnership in which TDS will
6 have at least 74 percent of the partnership. Members of the
7 Settlement Group will also have interests, minority interests,
8 in the partnership that will be the applicant, as amended.

9 There are other terms of the settlement that will be
10 included in the definitive agreement, which will be filed with
11 this Court within -- at the time that it's executed.

12 We'd also like to inform you that pursuant to prior
13 discussions with the Bureau after extensive discovery in this
14 case, TDS, United States Cellular, and the Bureau have reached
15 at least an understanding that this, this proceeding is capa-
16 ble of more expeditious resolution through the acceptance of
17 the direct cases and your consideration of a Joint Motion for
18 Summary Decision contingent upon the approval of the settle-
19 ment of the Wisconsin 8 Settlement Group and the acceptance of
20 the amendment. Both TDS and United States Cellular and also
21 the Bureau are prepared to, to file such a joint motion and it
22 will ultimately result in a conclusion that TDS is fully
23 qualified to be an FCC licensee.

24 It's our -- it's the Bureau's belief, TDS's belief,
25 and United States Cellular's belief, as well as, we believe,

1 the belief of the private parties that reach settlements that
2 this procedure will save time and resources of the Commission
3 and the various parties and eliminate the need for contested
4 findings and appeals, perhaps wrapping up in several months
5 what could take many years to resolve. For this reason, and
6 certainly reserving the right to rule on future requests that
7 are submitted before you that will embody the terms that I've
8 just disclosed to you today, the Bureau, TDS, and United
9 States Cellular as well as the Wisconsin 8 Settlement Group
10 are at this point moving -- or requesting you to continue for
11 30 days -- or suspend, actually, for 30 days the procedural
12 dates in this proceeding in order to allow the execution of
13 the definitive settlement agreement with the Wisconsin 8
14 Settlement Group, in order to allow the filing of the joint
15 requests, in order to allow the filing of the amendment to the
16 pending application of Telephone and Data Systems, and to
17 permit the Bureau and TDS and United States Cellular time to
18 draft and file the responsive pleadings subsequent to the --
19 those actions that I've mentioned previously. Within the 30-
20 day period from today, TDS, United States Cellular, and the
21 other parties will either file the agreements and pleadings
22 that have been disclosed today or provide you with a status
23 update on when you would expect to receive those pleadings or
24 filings.

25 I think the Bureau would -- and the Wisconsin 8

1 Settlement Group will concur with my presentation this
2 morning.

3 MR. WEBER: That is correct.

4 JUDGE GONZALEZ: The case?

5 MR. HARDMAN: Yes, Your Honor.

6 JUDGE GONZALEZ: Thank you. Do you want to suggest
7 a date, then --

8 MR. SCHNEIDER: For the report?

9 JUDGE GONZALEZ: Right. By which, by which time
10 the, the various pleadings will have to be -- 30 days you
11 mentioned, and that would be --

12 MR. SCHNEIDER: I would suggest Monday, April 17th,
13 Your Honor. That would be a Monday rather than a Friday.

14 JUDGE GONZALEZ: All right.

15 MR. SCHNEIDER: And I believe it may actually be 31
16 business days, but --

17 JUDGE GONZALEZ: That's fine. All right. Well, I
18 certainly find good cause as well for suspending the procedur-
19 al dates from the time to -- for the Parties to, to reach
20 agreements and perhaps even to submit a Joint Motion for
21 Summary Decision, which would certainly simplify the resolu-
22 tion of the issues that's before us. I would -- at least,
23 perhaps it will result in that.

24 I, I would, I would mention, however, that, I guess
25 as we're all aware, that a Joint Motion for Summary Decision

1 is unusual in an instance where the, the issues are character
2 issues, or what we generally refer to as character issues. In
3 my own mind I have not excluded, however, that possibility
4 that we, we could resolve them in that manner.

5 However, if -- I again also would like to alert the
6 Parties that I might, upon considering the joint motion, as
7 well as the record, the exhibits which have been admitted,
8 might feel it necessary to present a witness or several wit-
9 nesses for cross-examination or just to answer some questions
10 that I might have in my own mind. But that -- I feel fairly
11 confident I should be able to let the Parties know that fairly
12 soon on after it's submitted.

13 Does anyone want to ask any questions about, about
14 that matter or anything else?

15 (No response.)

16 JUDGE GONZALEZ: All right. Well, I think we've set
17 the date of April 17th, then, as the date by which the various
18 things have to be submitted and the Parties -- or the Parties
19 will notify me by that date that perhaps a further extension
20 is necessary.

21 If there's nothing further, then we'll conclude for
22 today. All right. Thank you.

23 (Whereupon, at 10:12 a.m. on Tuesday, March 14,
24 1995, the prehearing conference was concluded.)

25

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

Wisconsin 8 (Vernon) Rural Service Area

Name

CC 94-11

Docket No.

Washington, DC

Place

March 14, 1995

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 375 through 383, inclusive, are the true, accurate and complete transcript prepared from the reporting by Barbara Lord in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

3/17/95
Date

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